

## Federal Aviation Administration, DOT

## § 13.35

have not agreed to compromise the action or the agency attorney has not agreed to withdraw the notice of violation.

(d) *Order assessing civil penalty.* An order assessing civil penalty may be issued after notice and opportunity for a hearing. A person charged with a violation may be subject to an order assessing civil penalty in the following circumstances:

(1) An order assessing civil penalty may be issued if a person charged with a violation submits, or agrees to submit, the amount of civil penalty proposed in the notice of violation.

(2) An order assessing civil penalty may be issued if a person charged with a violation submits, or agrees to submit, an agreed-upon amount of civil penalty that is not reflected in either the notice of violation or the final notice and order.

(3) The final notice and order becomes (and contains a statement so indicating) an order assessing a civil penalty when the person charged with a violation submits the amount of the proposed civil penalty that is reflected in the final notice and order.

(4) The final notice and order becomes (and contains a statement so indicating) an order assessing a civil penalty 16 days after receipt of the final notice and order, *unless* not later than 15 days after receipt of the final notice and order, the person charged with a violation does one of the following—

(i) Submits an agreed-upon amount of civil penalty that is not reflected in the final notice and order, in which case an order assessing civil penalty or a compromise order shall be issued in that amount; or

(ii) Requests a hearing in which case a complaint shall be filed with the hearing docket clerk.

(5) Unless an appeal is filed with the FAA decisionmaker in a timely manner, an initial decision or order of an administrative law judge shall be considered an order assessing civil penalty if an administrative law judge finds that an alleged violation occurred and determines that a civil penalty, in an amount found to be appropriate by the administrative law judge, is warranted.

(6) Unless a petition for review is filed with a U.S. Court of Appeals in a

timely manner, a final decision and order of the Administrator shall be considered an order assessing civil penalty if the FAA decisionmaker finds that an alleged violation occurred and a civil penalty is warranted.

[Doc. No. 27873, 61 FR 44155, Aug. 28, 1996]

### Subpart D—Rules of Practice for FAA Hearings

#### § 13.31 Applicability.

This subpart applies to proceedings in which a hearing has been requested in accordance with §§ 13.19(c)(5), 13.20(c), 13.20(d), 13.75(a)(2), 13.75(b), or 13.81(e).

[Amdt. 13-18, 53 FR 34655, Sept. 7, 1988]

#### § 13.33 Appearances.

Any party to a proceeding under this subpart may appear and be heard in person or by attorney.

#### § 13.35 Request for hearing.

(a) A request for hearing must be made in writing and filed in the Hearing Docket.

(1) *If delivery is in person, or by expedited courier service.* A person delivering the request for hearing in person or sending the request for hearing by commercial expedited courier (for example, Federal Express or United Parcel Service), should use the following address: Federal Aviation Administration, 600 Independence Avenue, SW., Wilbur Wright Building—Suite 2W1000, Washington, DC 20591; Attention: Hearing Docket Clerk, AGC-430.

(2) *If delivery is by U.S. Mail:* If the request for hearing is sent by U.S. Mail, then it should be addressed as follows: Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Attention: Hearing Docket Clerk, AGC-430, Wilbur Wright Building—Suite 2W1000.

(b) The request for hearing must describe the action proposed by the FAA, and must contain a statement that a hearing is requested. A copy of the request for hearing and a copy of the answer required by paragraph (c) of this section must be served on the official who issued the notice of proposed action.